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OFFICE OF PETITIONS

In re Application of	:	
Higgins et al.	:	
Application No. 09/721,871	:	DECISION ON PETITION
Filed: 11/24/2000	:	
Attorney Docket No. 5113	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2006, to revive the above-identified application and on the request for a refund of the Request for Continued Examination (RCE) fee filed February 21, 2006.

The petition and request for a refund are **GRANTED**.

On October 19, 2005, the Office mailed a final Office action, which set a three-month shortened statutory period for reply. On February 21, 2006, petitioners submitted an RCE, an IDS, a request for an extension of time for response within the first month, and the requisite fees. However, the RCE was improper because the request was not accompanied by an appropriate submission in response to the outstanding final Office action. A Notice of Abandonment was mailed on September 8, 2006.

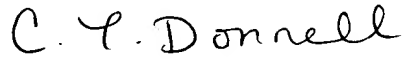
The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

As the RCE was improper, the Office will refund the \$790.00 fee to the Deposit Account, as requested.

This matter is being referred to Technology Center AU 1771 to await the filing of an appeal brief or such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

A handwritten signature in black ink, reading "C. T. Donnell". The letters are cursive and fluid, with the first name "C." and last name "Donnell" clearly distinguishable.

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions